IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 2101 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 29/10/2004 in WP NO : 36411 OF 1998 on the file of the High Court.)

Between:

S. Balarama Swamy, S/o. Sri S. Seetharama Swamy,
R/o. Begumpet, Hyderabad.

..... APPELLANT

AND

1 Andhra Bank, Rep by its Chairman & Managing Director, Central Office,

Saifabad, Hyderabad.
2 The General Manager, Andhra Bank, Central Office, Saifabad, Hyderabad.
3 The Asst. General Manager, Andhra Bank, Central Office, Saifabad,

Hyderabad.
4 The Personnel Manager, Andhra Bank, Central Office, Saifabad, Hyderabad.

.....RESPONDENTS

Counsel for the Appellant : MR.P.SAIMANGAPATHY

Counsel for the Respondents : MR.NUTY RAM MOHAN RAO

The Court made the following ORDER : (per SAR,J)

This writ appeal is filed by the dismissed employee of the respondent-bank aggrieved by the order of a learned single Judge of this Court passed in W.P.No.36411 of 1998 dated 29.10.2004.

The first and foremost contention of the learned counsel for the appellant/petitioner is that the dismissal order was passed by an incompetent authority-4th respondent though under the regulations, the 3rd respondent is the competent disciplinary authority against the appellant/petitioner. The respondent-bank initiated disciplinary proceedings against the appellant/petitioner and after conducting an enquiry by the enquiry officer final order was passed by the 4th respondent on 01.12.1987 dismissing the appellant/petitioner from service. The said order was confirmed in the appeal. But, however, a review petition was filed belatedly by the appellant/petitioner and the reviewing authority refused to entertain the review on that ground and the said order was assailed before the learned single Judge of this Court by way of filing writ petition. The learned single Judge confirmed the order of the reviewing authority on the ground of laches.

Learned counsel for the appellant/petitioner relying upon the orders of this Court contended that an order passed by an incompetent authority cannot be sustained even when such an order was assailed belatedly and that the ground of belatedness may be applied for denial of consequential benefits, but the main relief

itself cannot be denied when the original order was passed by an incompetent authority.

This matter was heard on the last occasion and at the request of the learned counsel for the respondents, the matter was adjourned to today in order to get instructions as to the said contention of the appellant/petitioner. The learned counsel appearing for the respondents is not in a position to dispute the contention as to the jurisdiction of the 4th respondent to pass an order of dismissal against the appellant/petitioner.

The schedule to the regulations clearly shows that with reference to the Grade-II Officers, it is only the Assistant General Manager who is the disciplinary authority and the Deputy General Manager is the appellate authority while the General Manager is the reviewing authority and the regulations does not show anywhere that the personnel Manager is the disciplinary authority with reference to any of the Officers of the 1st respondent-bank.

In the light of the said contention and in the light of the regulations placed before this Court, the order of dismissal passed by the 4th respondent is illegal and without jurisdiction and consequently, all the three orders passed by respondent Nos. 2 to 4 are set aside and the matter is restored to the disciplinary authority to consider the matter afresh basing on the material already obtained or collected by the enquiry officer, if the 1st respondent-bank chooses to proceed against the appellant/petitioner.

Under the above circumstances, the writ appeal is allowed setting aside the order of the learned single Judge as well as the impugned orders passed by respondent Nos. 2 to 4 and the matter would be considered afresh by the competent disciplinary authority, in the light of the above observations.

However, we make it clear that in view of the laches on the part of the writ appellant, if ultimately, the appellant/petitioner succeeds and is reinstated, he shall not claim any back wages for the period from the date of dismissal till the date of dismissal of the review petition by the reviewing authority. No costs.

(T.MEENA KUMARI, J)

(S.ANANDA REDDY, J)

24.01.2005

bsv/lvl

To

1 The Chairman & Managing Director Andhra Bank, Central Office,

Saifabad, Hyderabad.
2 The General Manager, Andhra Bank, Central Office, Saifabad, Hyderabad.
3 The Assistant General Manager, Andhra Bank, Central Office, Saifabad,

Hyderabad.
4 The Personnel Manager, Andhra Bank, Central Office, Saifabad, Hyderabad.

5 Two CD copies